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10/584,181

06/23/2006

Norbert Rueckgauer

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER

LOPEZ, FRANK D

ART UNIT

PAPER NUMBER

3745

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/584,181 | Applicant(s) RUECKGAUER ET AL. | |
| | Examiner F. Daniel Lopez | Art Unit 3745 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/23/06</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 6 and 10 "the first connection"; and line 7 and 11 "the second connection" have no antecedent basis. In claim 1 line 4 "a partial delivery line" should be --in respective first and second partial delivery lines--, to agree with line 6 and 10.

In claim 2 line 2 and claim 3 last line "if necessary" is confusing, since it is unclear whether this limitation is being claimed or not.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 6 are rejected under 35 U.S.C. § 102(a) as being anticipated by Desjardins et al. Desjardins et al discloses a hydraulic drive system comprising a pump having first and second delivery lines in a common cylinder drum; wherein a first fixed displacement torque motor (e.g. 12) driving a first drive line has first and second connections connected (by 48, 122, respectively) to respective first and second

connections of the first partial delivery line (52, 126); a second adjusting (i.e. moving) motor (e.g. steering) driving a second drive line has first and second connections connected (by 18, 20, respectively) to respective first and second connections of the second partial delivery line (36, 78); wherein an equalizing flow can take place (by valves 46, 38) for equalizing a differential between the 2 partial flows.

Claims 1-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Essig et al. Essig et al discloses a hydraulic drive system (fig 7) comprising first and second variable displacement pumps (2, 3), respectively having first and second delivery lines in a common cylinder drum (as shown by dotted lines enclosing the pumps); wherein a first fixed displacement torque motor (e.g. 12b) driving a first drive line has first and second connections (13, 11b) connected to respective first and second connections (14, 5) of the first partial delivery line; a second fixed displacement torque motor (e.g. 16a) driving a second drive line has first and second connections (19a, 18) connected to respective first and second connections (9, 10) of the second partial delivery line; wherein first and second 2/2 way valves (70, 71), integrated into the pump, are connected between the 2 partial lines for equalizing a differential between the 2 partial flows.

The limitation of the “common cylinder drum” (claim 1 line 4) is broadly construed as a common housing, since this has not been further limited.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM -4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
March 20, 2008